REMARKS

Applicants have thoroughly considered the Examiner's remarks. The application has been amended to more clearly define the invention. Claims 1-48 and 50-56 are presented in the application for further examination. Claims 1-4, 6, 8, 10-11, 22-24, 26-28, 30-31, 35, 37, 39, 46-47 and 50 have been amended by this Amendment C. Claim 49 has been cancelled. Reconsideration of the application claims as amended and in view of the following remarks is respectfully requested. The following remarks have been organized according to the subject matter of the claims.

THE COMBINED REFERENCES DO NOT TEACH A TEXT-BASED SCRIPT TO INSTALL A REDUCED OPERATING SYSTEM ON ANOTHER COMPUTER AS RECITED BY CLAIMS 1-23 AND 56

Claims 1-56 stand rejected under 35 USC 103(a) as being unpatentable over Halladay (US Patent No 5,713,024) in view of Chrabaszcz et al (US Patent No 6,138,179). First, applicants submit that amended claims 1 and 23 distinguish over the Halladay and Chrabaszcz patents. Second, applicants respectfully challenge examiner's assertion that it is well known to a routineer in the art that an operating system is editable by a user. Third, applicants respectfully disagree with the Examiner's combining of the Halladay patent with the Chrabaszcz patent.

As to the first point, a close reading of col. 7, lines 47-63 of the Halladay patent makes clear the sections of the Halladay patent cited by the Examiner [col. 4, lines 21-25; col. 8, lines 14-15; col.8 lines 25-49] teach away from the claimed invention. The Halladay patent states "The cold boot process must be customized for the computer system 1 on which it is to be used... [b]ecause each computer system 1 is uniquely configured and populated with application programs." [col. 7, lines 47-51] The paragraph goes on to say that the cold boot apparatus is used "to cold boot the computer system I in the event the memory of computer system 1 false and must be completely restored." [col. 7, lines 57-63] Notice that the process "*must* be customized for the computer system 1" and that the apparatus is only used to boot "the computer system I." (Emphasis added). Therefore, the Halladay invention must be customized for one

specific, unique computer system and can only be used on that one specific, unique computer system.

In contrast, applicants' invention does *not* have to be customized for one, specific unique computer system and then used on that one specific, unique computer system. In particular, amended claim 1 recites a computerized method comprising:

> providing a user with access to a text-based script;
>
> editing, by the user, the text-based script to provide a user-customized, text-based script;
>
> booting a *first computer* from a reduced operating system image on a computer readable medium, wherein said reduced operating system image is of a full operating system image of a *second computer having a hardware independent of the first computer*; and
>
> performing one or more functions on the *first computer* according to the user-customized, text-based script, wherein *the computerized method is architecture independent*. (Emphasis added).

The emphasized language clearly points out that applicants' claimed invention provides a general method for booting and performing function(s) on a first computer from a reduced operating system image derived from a full operating system image of a second, different computer. Claim 23 is a similar claim which recites a system comprising:

> means for editing, by a user, a text-based script to provide a user-customized, text-based script;
>
> means for booting a *first computer* from a reduced operating system image on a computer readable medium, wherein said reduced operating system image is of a full operating system image of a *second computer having hardware independent of the first computer*, and said *reduced operating image is hardware independent*; and
>
> means for performing one or more functions on the *first computer* according to the user-customized, text-based script to install the reduced operating system image on the *first computer*. (Emphasis added).

Thus, both the invention of claim 1 and that of claim 23 are distinguishable over the Halladay patent which is limited to booting and performing functions on the one specific and same computer where the full operating system image was stored. The Chrabaszcz patent does not address this aspect and is similarly deficient.

The method and system disclosed in applicants' amended claims 1 and 23 are supported in the applicants' patent application. Page 2, lines 23-25 state that the "reduced OS image of the invention is *hardware independent* since the reduced OS image includes a plurality of user-specified hardware drivers (See also page 19, lines 28-29)." "Since the reduced OS image *boots on various computers*, different computers might have different display, input, and storage devices. The reduced OS image includes a common, dynamic superset list of drivers which would work on most of the computers." [page 20, lines 8-12] Additionally, "the systems and methods of the invention are *architecture independent* in that the invention is operative with *any* computer architecture that is supported by the reduced OS image." [page 7, lines 31 – page 8, line2] "For example, if the reduced OS image provides support for computers with a 32-bit architecture and computers with a 64-bit architecture, the invention applies to computers with either a 32-bit or 64-bit architecture." [page 8, lines 2-5] These features of the claimed invention have many important advantages including reducing the time and resources required to install an operating system on multiple computer systems.

Thus, Halladay is deficient in that it teaches away from having a general method for creating a reduced operating system image of a full operating system image of a computer and using it to boot and perform function(s) on a different computer. Chrabaszcz is also deficient because it fails to address this aspect. Accordingly, applicants respectfully submit that independent claims 1 and 23, and dependent claims 2-23 and 56 depending from claim 1, are patentable over Halladay and Chrabaszcz so that the rejection based on 35 103(a) should be withdrawn.

Second, applicants challenge the Examiner's statement that "a routineer in the art would know that it is well known that auto_exec.bat script file or config.sys script file or event log script file is text editable." However, in the context of creating a reduced operating system from an original operating system, this is not the case. As stated on page 2, lines 5-7 of applicants' patent application, most operating system images include

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microkernel operating systems that are hardware dependent and therefore do not include
a text-based script that is customizable by the user. Therefore, it is not well known to a
routineer in the art that an operating system is editable by a user. Accordingly, applicants
respectfully challenge examiner's assertion as not properly based on common knowledge.
Thus, the examiner must point to some concrete evidence in the record in support of his
assertions to satisfy the substantial evidence test. MPEP § 2144.04(C) citing In re Zurko,
258 F.3d at 1386, 1386 (C.A. Fed. 2001). In particular, the examiner must cite a
reference which teaches editing a text-based script with respect to a reduced operating
system. In the absence of this evidence, the Examiner's challenge must fail and claims 1-
23 and 56 are patentable.

Third, applicants argue there is no basis for the Examiner's combining of the
Halladay patent with Chrabaszcz patent. The Halladay patent addresses only the problem
of recovering data to a computer following corruption by user error or equipment failure.
In contrast, the Chrabaszcz patent seeks to provide an efficient method and system for an
automatic initial installation of programs. Nowhere does the Chrabaszcz patent address
the problem of computer corruption. The Halladay patent can not even be used
effectively until after there is an initial installation of programs on a given computer. As
has been shown, the non-analogous teachings of the prior art relate to different fields of
endeavor and are directed to entirely different problems. Therefore, nothing in the cited
references suggests their combination. Indeed, the Examiner failed to cite any basis
whatsoever for combining these references. In fact, the Examiner's rejection provides a
textbook example of impermissible hindsight analysis -- the Examiner used the invention
as defined by the claims as a guide to pick and choose non-analogous references in order
to reject the claims. See In re Oetiker, 977 F.2d at 1447; 24 U.S.P.Q.2d at 1446 (Fed.
Cir. 1992)("There must be some reason, suggestion, or motivation found in the prior art
whereby a person of ordinary skill in the field of the invention would make the
combination. That knowledge can not come from the applicant's invention itself.").

THE COMBINED REFERENCES DO NOT TEACH A TEXT-BASED SCRIPT TO INSTALL A FULL
OPERATING SYSTEM ON ANOTHER COMPUTER AS RECITED BY CLAIMS 24-36

Claims 24 and 31 recite installing a full operating system. Like claims 1 and 23, claims 24 and 31 have been amended to clarify that applicants' invention does *not* have to be customized for one, specific unique computer system and then used on that one specific, unique computer system. Claim 24 is a method claim that has been amended to use the same language that was emphasized in claim 1. In a similar fashion, claim 31 is a system claim and has been amended to use the same language that was emphasized in claim 23. The emphasized language in both claims clearly points out that applicants' claimed invention provides a reduced operating system image of a first operating system image of a computer to install a full operating system image on a different computer. Thus, the claimed invention is distinguishable over the Halladay and Chrabaszcz patents which are limited installing/restoring the full operating system image on the specific computer on which the full operating system image was initially stored. Thus, applicants respectfully submit that claims 24 and 31 and their dependent claims 25-30 and 32-36 are allowable over the cited art for at least the same three reasons as claims 1 and 23.

THE COMBINED REFERENCES DO NOT TEACH A TEXT-BASED SCRIPT TO DIRECT RECOVERY FROM FAILURE OF ANOTHER COMPUTER AS RECITED BY CLAIMS 37-38

Claim 37 recites a medium having a text-based script file to direct recovery from failure of software. However, like claim 1, claim 37 has been amended to clarify that applicants' invention does *not* have to be customized for one, specific unique computer system and then used on that one specific, unique computer system. Instead, claim 37 recites a computer readable recovery medium for use with a *first computer, having a full operating system image, and for use with a second computer* comprising:

a reduced operating system image of the full operating system image of the *first computer* wherein the *reduced operating system image is hardware independent*; and

a text-based script file which interacts with the reduced operating system image to direct recovery from failure of software on [[a]] the *second computer*, and wherein said text-based script file includes text editable by a user, and the *second computer has hardware independent from the first computer*. (Emphasis added).

The emphasized language in the claim clearly points out that applicants' claimed invention provides a reduced operating system image of a first operating system image of a computer to direct recovery on a different computer. Thus, the claimed invention is distinguishable over the Halladay and Chrabaszcz patents which are limited to restoring the full operating system image on the specific computer on which the full operating system image was initially stored. Thus, applicants respectfully submit that claim 37 and claim 38 depending from claim 37 are allowable over the cited art for at least the same three reasons as claims 1 and 23.

THE COMBINED REFERENCES DO NOT TEACH A TEXT-BASED SCRIPT ON A DESTINATION MEDIUM TO BOOT ANOTHER COMPUTER AS RECITED BY CLAIMS 39-48 AND 50-55

Claim 39 has been amended to include the emphasized language from claim 1 in order to clarify that applicants' invention does *not* have to be customized for one, specific unique computer system and then used on that one specific, unique computer system. Claims 46 and 47 are systems which have been amended to include the emphasized language from claim 23 to make the same clarification. The emphasized language in these claims clearly points out that applicants' claimed invention provides a reduced operating system image of a full operating system image of a computer installed on a destination medium to boot a different computer. Accordingly, the claimed invention is distinguishable over the Halladay and Chrabaszcz patents which are limited to booting a computer using a destination medium from a reduced operating system image of the specific computer on which the full operating system image was initially stored. Thus, applicants respectfully submit that claims 39, 46, and 47, and claims 40,-45, 48, and 50-55 depending therefrom, are allowable over the cited art for at least the same three reasons as claim 1.

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SUMMARY AND CONCLUDING REMARKS

Neither the Halladay nor the Chrabaszcz reference separately or in combination anticipates or makes obvious the present invention. In addition, the cited art lacks motivation to combine the references, and the combined references fail to teach or suggest each and every element of independent claims 1, 23, 24, 31, 37, 39, 46, and 47. In view of the foregoing, applicants submit that amended independent claims 1, 23, 24, 31, 37, 39, 46, and 47 are allowable over the cited art. Dependent claims 2-3, 8, 10-11, 22, 26-28, 30, 35 and 50 have been amended to reflect the amendments made to the claims to which they depend. Each dependent claim is believed to be allowable for at least the same reasons as the independent claims from which they depend.

For example, claims 8, 9, 28, 29 and 42 relate to integrating files. The Examiner points to col. 4, lines 21-25 and col. 7, line 63 – col. 8, line 19 as teaching integrating files and also suggesting that such is inherent. Applicants disagree. The citations do not mention integration and Applicants submit that such integration is not inherent in the context of the recited claims. Applicants request that the Examiner cite a reference or indicate that claims 8, 9, 28, 29 and 42 which relate to integrating files are patentable.

Additionally, the Examiner has recognized that Halladay does not teach claims 12, 13, 16, 19, 20, 41, 55, 49, 50, 52, and 56 but states that they are obvious to one of ordinary skill in the art at the time the invention was made. Likewise, the Examiner asserts that claims 7, 33, 40, 34, 42, and 54 are inherent. However, applicants argue that the stated claims are not obvious or inherent in the context of using customizable text-based script to interact with a reduced operating system. As stated on page, 2 lines 5-7 of applicant's patent application, most operating system images include microkernel operating systems that are hardware dependent and therefore do not include a text-based script that is customizable by the user. Accordingly, applicants respectfully challenge the Examiner's assertion. Thus, the Examiner must point to some concrete evidence in the record in support of his assertions. In the absence of this evidence, the Examiner's challenge must fail and claims 12, 13, 16, 19, 20, 41, 55, 49, 50, 52 and 7, 33, 40, 34, 42, 54 are patentable.

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CONCLUSION

It is felt that a full and complete response has been made to the Office action and, as such, places the application in condition for allowance. Such allowance is hereby respectfully requested. Although the prior art made of record and not relied upon may be considered pertinent to the disclosure, none of these references anticipates or makes obvious the recited invention.

The Applicants wish to expedite prosecution of this application. If the Examiner deems the claims to not be in condition for allowance, the Examiner is invited and encouraged to telephone the undersigned to discuss making an Examiner's amendment to place the claims in condition for allowance.

Enclosed is an Applicant Initiated Interview Request Form.

Applicants do not believe that a fee is due in connection with this response. If, however, the Commissioner determines that a fee is due, he is authorized to charge Deposit Account No. 19-1345.

Respectfully submitted,

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